

Legal Lore

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LEGAL LORE

Marriage and the Constitution

Marshall, J. (dissenting). I cannot agree to the decision of this case because:

To marry is a natural right. It is thus guaranteed by the purpose and spirit of the Constitution: "All men are born equally free and independent, and have certain inherent rights; and among these are life, liberty, and the pursuit of happiness." (Sec. 1. Art I. Wisconsin Constitution). *Peterson v. Widule*, 152 Wis. 641.

A Mistake of Fact

According to Roman law, there were certain classes of persons "*quibus permittitur est jus ignorare*." (Dig. Lib. 22, tit. 6, Leg. 9.) They were exempt from liability—at least for certain purposes—not by reason of their general imbecility, but because it was presumed that their capacity is not adequate to a knowledge of the law." Such were women, soldiers, and persons who had not reached the age of twenty-five. Ignorance of law, considered *per se*, was in these cases considered a ground of exemption. In such cases it was presumed from the sex, or from the age, or from the profession of the party, that the party was ignorant of the law, and that the ignorance was inevitable. (Austin's Jur., vol. II, p. 174.)
—Kerr, *Fraud and Mistake*, page 398, American Edition

Qualifications Are Vital

In *Bompart's Administration v. Lucas*, 32 Mo. 123, it was held that where the plaintiff reads in evidence a portion of an answer of defendant, he must read the whole of a sentence, and not omit that part which qualifies the statement read, and said that a contrary rule would be "only equaled by the case of the infidel who undertook to prove from the Scriptures the want of a Deity by reading the words, 'There is no God,' and omitting the preceding words, 'The fool hath said in his heart.'"
—*Gassler v. Wood*, 27 S.E. 33, 35

The Wisdom of Age

STUDENT:

For jurisprudence some distaste I own.

MEPHISTOPHELES:

To me this branch of science is well known,
And hence, I cannot your repugnance blame.
Customs and laws in every place,
Like a disease, an heirloom dread,
Still trail their curse from race to race,
And furtively abroad they spread.
To nonsense, reason's self they turn;
Beneficence becomes a pest;
Woe unto thee, that thou'rt a grandson born!

As for the law born with us, unexpressed;—
That Law, alas, none careth to discern.

—Goethe's *Faust*, Part I, Line 1614

America's Beatitude

The Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances.

—U. S. Supreme Court in *Ex parte Milligan*, 4 Wallace 2, 120, 125

Auld Lang Syne

Webster defines—

Ale, as: "An intoxicating liquor made from an infusion of malt by fermentation and the addition of a bitter, usually hops," and

Porter, as: "A malt liquor, of dark color and moderately bitter taste, possessing tonic and intoxicating qualities.

—Note to 251 U.S. 264, at 303

